

Michigan Judges Association

Founded 1927

March 10, 2008

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TIM WARD

Chief Justice Clifford W. Taylor
Michigan Supreme Court
P.O. Box 30052
Lansing, MI. 48909

RE: ADM File No. 2006-32
ADM File No. 2007-38

Dear Chief Justice Taylor:

At the February 12, 2008 meeting of the Michigan Judges Association, the Executive Board and Rules Committee considered the above-referenced proposed amendments.

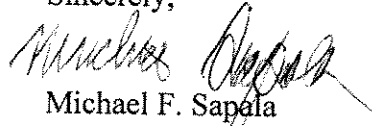
We first considered ADM file no. 2006-32, proposed amendment of Rule 2.504 of the Michigan Court Rules, relating to Dismissal of Actions. The MJA Rules Committee and the MJA Executive Board considered the proposed amendment, which would allow the Court, on a motion of any party, or sua sponte, to enter a default or dismiss a party's action or claim for failure to comply with the rules or a court order. The amended rule would provide added incentive for parties to be attentive in the handling of their cases and in complying with court rules and orders. We believe, however, that there is a need for clarification in the wording of MCR.2.504(B)(2). We suggest the following:

(2) In an action, claim, or hearing tried without a jury, after the presentation of the plaintiff's evidence, the court, on its own initiative, may dismiss, or the defendant, without waiving the defendant's right to offer evidence if the motion is not granted, may move for dismissal on the ground that, on the facts and the law, the plaintiff has no right to relief. The court may then determine the facts and render judgment against the plaintiff or may decline to render judgment until the close of all the evidence. If the court renders judgment on the merits against the plaintiff, the court shall make findings as provided in MCR 2.17.

MJA also considered ADM file no. 2007-38, proposed amendment of Rule 6.201 of the Michigan Court Rules, relating to Discovery. The MJA Rules Committee and the MJA Executive Board supports the proposed amendment, which clarifies that the prosecuting attorney is required to provide such information or evidence regardless of whether it is requested by the Defendant. We believe that the proposed amendment is consistent with the requirements established by case law.

We thank the Court for considering our input on these matters. If the Michigan Judges Association may provide any further information or assistance, please do not hesitate to contact us.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael F. Sapala", is written over the typed name.

Michael F. Sapala
President, Michigan Judges Association

cc: Corbin R. Davis, Clerk of the Michigan Supreme Court
Hon. Stephen D. Gorsalitz, Rules Committee Chairperson
Hon. Annette J. Berry, Secretary of MJA
Anne Boomer, Administrative Counsel